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REDACTED – FOR PUBLIC INSPECTION

December 12, 2002

RECEIVED

BY HAND DELIVERY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

DEC 12 2002

*Ex Parte*

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Request for Confidential Treatment Pursuant to 47 C.F.R. § 0.459 of Information Provided in WC Dockets No. **02-202** (Verizon Petition for Emergency Declaratory and Other Relief), **02-304** (Investigation of BellSouth Telecommunications, Inc., Tariff FCC No. 1, Transmittal No. **657**), **02-319** (Investigation of Ameritech Operating Companies Tariff FCC No. 2, Transmittal No. **1312**; Nevada Bell Telephone Companies Tariff FCC No. 1, Transmittal No. 20; Pacific Bell Telephone Company FCC Tariff No. 1, Transmittal No. **77**; Southern New England Telephone Companies Tariff FCC No. **39**, Transmittal No. **772**; Southwestern Bell Telephone Company FCC Tariff No. **73**, Transmittal No. **2906**), **02-340** (Investigation of National Exchange Carrier Association, Inc. Tariff FCC No. **5**, Transmittal No. **951**)

Dear Ms. Dortch:

Pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459, Nextel Communications, Inc. ("Nextel") hereby requests confidential treatment in the above-referenced dockets of the data marked "proprietary" in Attachment A hereto. This data contains confidential business information, the disclosure of which could substantially harm Nextel's competitive position.

1. Identification of the specific information for which confidential treatment is sought.

Nextel requests that the attached information marked as "proprietary" be treated as confidential under Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). The information for which confidential treatment is being requested contains commercially and competitively sensitive data concerning Nextel's yearly uncollectibles.

2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

On Friday, December 6, 2002, Robert H. McNamara, Senior Counsel – Regulatory, Nextel and the undersigned met with Tamara Preiss, Judith A. Nitsche, Douglas L. Slotten, Andrew Multz, Kathleen O'Neill, and Julie Saulnier of the Pricing Policy Division of the Wireline Competition Bureau regarding the above-captioned proceedings. During that meeting, FCC staff requested certain additional information from Nextel. In response, Nextel is submitting under seal Attachment A, which reports on Nextel's uncollectibles for 2000, 2001, and year-to-date 2002.<sup>1</sup> As previously explained by Nextel: and as confirmed by the attached data, the level of uncollectibles varies over time but is higher during an economic downturn.

3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The information contains commercially and competitively sensitive data concerning Nextel's uncollectibles, which is not normally released due to concerns that it could harm Nextel's competitive position.

4. Explanation of the degree to which the information concerns a service that is subject to competition.

The aggregate uncollectible percentages included in this filing relate to the provision of CMRS and other services that are highly competitive. General availability of this information would adversely affect Nextel's competitive position in providing these services.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

If this information were made public, it would give competitors insight into Nextel's uncollectibles. This commercially and competitively sensitive data is not normally released due to concerns that it could harm Nextel's competitive position.

6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and
7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

Nextel's financial and billing data, including data regarding its uncollectibles, is not normally released due to concerns that it could harm Nextel's competitive position. Company

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<sup>1</sup> Contemporaneously with this request, Nextel is also submitting the same information under seal pursuant to the Protective Order, DA 02-2949, in WC Docket No. 02-317.

<sup>2</sup> See, e.g., *Opposition of Nextel Communications, Inc. to BellSouth Direct Case*, filed in WC Docket No. 02-304, at 7 (Oct. 24, 2002).

practices instruct employees not to disclose this information unless authorized to do so.

**8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure.**

This material must be kept confidential for an indefinite period. Nextel cannot determine at this time any date by which the information would become “stale” for these purposes.

**9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.**

Under applicable Commission and court rulings, this material should be kept confidential and should not be disclosed to the public. Exemption 4 of the Freedom of Information Act shields information from public disclosure that is (1) commercial or financial in nature; (2) obtained from a person outside the government; and (3) privileged or confidential. See 5 U.S.C. § 552(b)(4) (permitting withholding of “trade secrets and commercial or financial information obtained from a person and privileged or confidential”). The attached information clearly meets the first two criteria of that test. In addition, the third criterion is clearly satisfied because commercial or financial information is considered to be confidential if disclosure is likely to (1) impair the government’s ability to obtain necessary information in the future, or (2) harm substantially the competitive position of the person from whom the information was obtained. See, e.g., *National Parks and Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). The attached information marked “proprietary” clearly meets this criterion. This information is not normally released due to concerns that it could harm substantially Nextel’s competitive position.

**Protective Order Requested**

If the Commission does not grant complete confidentiality to the information, it should permit disclosure of the information, other than to a Commission employee working directly on the matter, only to persons who sign the Commission’s standard protective agreement. In addition, please provide the undersigned sufficient advance notice prior to any such disclosure to allow Nextel to pursue appropriate remedies to preserve the confidentiality of the information.

Pursuant to section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b), two copies of this filing in redacted form for each of the above-referenced dockets are being filed for inclusion in the public record. One confidential copy of this letter is **also** being hand delivered to those FCC staff members listed below.

Sincerely,



Ruth Milkman

cc: Tamara Preiss  
Andrew Mulitz  
Qualex International

Judith A. Nitsche  
Kathleen O’Neill

Douglas L. Slotten  
Julie Saulnier (3 copies)

**ATTACHMENT A**

**[REDACTED IN FULL]**